

WEB COPY

W.P(MD).Nos.3191 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).Nos.3191 to 3193 of 2022

and

WMP (MD) Nos. 2773, 2775 and 2776 of 2022

W.P(MD).No.3191 of 2022

Tvl ELFIN E-Come Private Ltd.,
Represented by its Managing Director,
S. Ramesh Kumar

... Petitioner

Vs.

- 1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam,
Chepauk, Chennai – 600 005.
- 2.The State Tax Officer,
Demand collection Cell,
O/o. The Deputy Commissioner (ST)-(Inspection),
Commercial Taxes Complex,
Cantonment,
Trichy.
- 3.The State Tax Officer (Intelligence),
Inspection – III,
Commercial Taxes Complex,



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Dr. Thangaraj Salai,
Madurai – 625 020.

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4. The Assistant Commissioner (ST),
Madurai (Rural) South Circle,
Commercial Taxes Complex,
Dr. Thangaraj Salai,
Madurai – 625 020.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd Respondent in GSTN. 33AAECE7093G1ZM/2017-18 dated as 24.03.2021 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.J.K.Jayaseelan
Government Advocate

W.P(MD).No.3192 of 2022

Tvl ELFIN E-Come Private Ltd.,
Represented by its Managing Director,
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1. The Commissioner of Commercial Taxes,
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2. The State Tax Officer,
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Trichy.

3. The State Tax Officer (Intelligence),
Inspection – III,
Commercial Taxes Complex,
Dr. Thangaraj Salai,
Madurai – 625 020.

4. The Assistant Commissioner (ST),
Madurai (Rural) South Circle,
Commercial Taxes Complex,
Dr. Thangaraj Salai,
Madurai – 625 020.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd Respondent in GSTN 33AAECE7093G1ZM/2018-19 dated as 29.03.2021 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.J.K.Jayaseelan
Government Advocate

W.P(MD).No.3193 of 2022

M/s. Tvl ELFIN E-Come Private Ltd.,
Represented by its Managing Director,
S. Ramesh Kumar

... Petitioner

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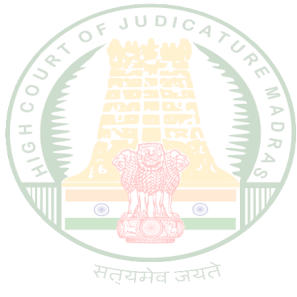
Vs.

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Dr. Thangaraj Salai,
Madurai – 625 020.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd Respondent in GSTN 33AAECE7093G1ZM/2019-20 dated as 25.03.2021 and quash the same.



W.P(MD).Nos.3191 of 2022

For Petitioner : Mr.B.Rooban
For Respondents : Mr.J.K.Jayaseelan
Government Advocate

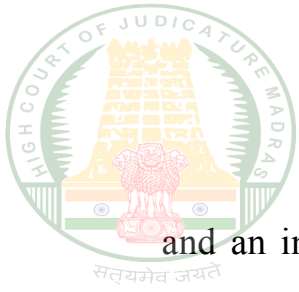
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COMMON ORDER

The petitioner has challenged the impugned orders passed for the assessment years 2017-2018, 2018-2019 and 2019-2020, dated 24.03.2021, 29.03.2021 and 25.03.2021 respectively. The only ground on which the impugned orders have been challenged in these three writ petitions are that the impugned orders have been passed for the very same assessment year in respect of which earlier assessment orders were passed on 03.03.2020, against which, both the petitioner and the department preferred appeal before the Appellate Commissioner. It is therefore, submitted that the impugned orders are without jurisdiction.

2. The learned counsel for the petitioner submits that the order is without jurisdiction and based on circular, no steps were taken earlier.

3. Opposing the prayer, the learned counsel for the respondents submits that the petitioner had obtained GST registration for Madurai premises only



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and an inspection was carried out simultaneously by two different teams at

WEB COPY Madurai and at Trichy. It is submitted that Trichy premises was not a registered premise and the petitioner was effecting supply by citing Company Identification Number and therefore two separate proceedings have been initiated. It is submitted that the petitioner is a chronic defaulter of tax and as on date, the petitioner's GST registration has also been cancelled and not revoked till date. It is further submitted that the demand confirmed by the respondents was pertains to supply effected within jurisdiction of Trichy. It is submitted that citing the Company Identification Number and there is no overlapping of the turn over between the amount confirmed in the orders which are in appeal before the Appellate Commissioner and amount that has been confirmed in the impugned order.

4. The learned counsel for the respondents further submits that the writ petition is liable to be dismissed on account of latches. That apart, the learned counsel for the respondents further submits that the turn over of the petitioner is about Rs.4.69 Crores at Trichy and the petitioner had suppressed and resorted to clandestine supply of service without payment of tax.



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5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

6. The writ petition has been filed on 23.11.2021. The impugned orders are dated 24.03.2021, 29.03.2021 and 25.03.2021. There are several disputed questions of fact and therefore the jurisdiction of this Court cannot be abused to be used as an accessory to legitimize evasion of tax. In any event, the peititoner has an appellate remedy. Whether the petitioner had indeed to evaded tax or not, cannot be decided in this proceeding. The peititoner can puruse the appellate remedy before the Appellate Commissioner against the impugned orders.

7. Considering the fact that the petitioner has tried to redress the grievance before this Court wrongly, I am inclined to dismiss this writ petition with liberty to the petitioner to file a statutory appeal before the Appellate Commissioner within a period of thirty days from the date of receipt of copy



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of this order. In case, if such appeals are filed before the Appellate

WEB COPY Commissioner, Appellate Commissioner shall entertain the same and pass

appropriate orders on merits and in accordance with law. Needless to state, the

petitioner shall also pre-deposit the mandatory amount that is required under

the Provisions of respective Goods and Services Tax Acts. The Writ Petition is

dismissed with the above observations. No costs. Consequently, the connected

Miscellaneous Petitions are closed.

21.02.2022

Index : Yes / No

Internet : Yes/ No

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



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C.SARAVANAN, J.

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